

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL PERKO, <i>et al.</i> ,)	
)	LEAD CASE NO. 5:10CV0514
Plaintiffs,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
FORD MOTOR COMPANY,)	<u>OPINION AND ORDER APPOINTING</u>
)	<u>INTERIM CLASS COUNSEL</u>
Defendant.)	[Resolving ECF No. 51]

This putative class action is before the Court upon Plaintiffs' Motion for the Appointment of Interim Class Counsel ([ECF No. 51](#)) pursuant to [Fed. R. Civ. P. 23\(g\)\(3\)](#), filed on August 15, 2011. The Court has reviewed the memorandum in support, the declarations of Michael A. Caddell ([ECF No. 56-1](#)) and Mark Schlachet ([ECF No. 57-1](#)), and the declarations, with exhibits, of Jeffrey S. Goldenberg (ECF Nos. [52](#) and [52-1](#)), James C. Shah (ECF Nos. [53-1](#) and [53-2](#)), Steve W. Berman (ECF Nos. [54-1](#) and [54-2](#)), and Mitchell A. Toups (ECF Nos. [55-1](#) and [55-2](#)). For good cause shown, the motion is granted without opposition.

Under [Fed. R. Civ. P. 23\(g\)\(1\)\(A\)](#), the Court must consider the following factors in appointing lead counsel: 1) the work that counsel has performed in identifying or investigating potential claims in the action; 2) counsel's experience in handling class actions, other complex litigation, and claims of the type asserted in the action; 3) counsel's knowledge of the applicable law; and 4) the resources that counsel will commit to representing the class. In appointing lead class counsel, a court should conduct an independent review to ensure that counsel appointed to

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leading roles are qualified and responsible, that they will fairly and adequately represent all of the parties on their side, and that their charges will be reasonable. See [Manual for Complex Litigation § 10.22 \(4th Edition, 2004\)](#).

1. The Court finds that Goldenberg Schneider, LP A (“GS”) and Shepherd, Finkelman, Miller & Shah, LLP (“SFMS”) meet the standards set forth in [Fed. R. Civ. P. 23\(g\)\(1\) and \(4\)](#) to serve as Interim Co-Lead Class Counsel. Pursuant to [Rule 23\(g\)\(3\)](#), the Court appoints Jeffrey S. Goldenberg of GS and James C. Shah of SFMS as Interim Co-Lead Class Counsel.

2. The Court further finds that Steve W. Berman of Hagens Berman Sobol Shapiro, LLP meets the standards set forth in [Fed. R. Civ. P. 23 \(g\)\(1\) and \(4\)](#) to serve as Chair of Plaintiffs’ Executive Committee and Interim Class Counsel. Pursuant to [Rule 23\(g\)\(3\)](#), the Court appoints Steve W. Berman as Chair of Plaintiffs’ Executive Committee and Interim Class Counsel.

3. The Court further finds that Mitchell A. Toups of Weller, Green, Toups and Terrell, LLP, Michael A. Caddell of Caddell & Chapman, P.C., and Mark Schlachet meet the standards set forth in [Fed. R. Civ. P. 23\(g\)\(1\) and \(4\)](#) to serve as Members of Plaintiffs’ Executive Committee and Interim Class Counsel. Pursuant to [Rule 23\(g\)\(3\)](#), the Court appoints Mitchell A. Toups, Michael A. Caddell and Mark Schlachet as Members of Plaintiffs’ Executive Committee and Interim Class Counsel.

4. Interim Co-Lead Class Counsel, in consultation with the Chair of the Executive Committee and the Executive Committee, shall have the following responsibilities on behalf of all Plaintiffs in this action and any additional related actions that are consolidated with this action (collectively, “the Action”):

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- A. To determine and to present in motions, briefs, oral argument (subject to permission of the Court) or such other fashion as may be appropriate, either personally or by designee, to the Court and opposing parties, the position of all Plaintiffs as to all matters arising during all pretrial and trial proceedings in the Action;
- B. To designate attorneys to appear and present oral argument (subject to permission of the Court) at status, pretrial and other conferences and hearings in the Action;
- C. To conduct or coordinate discovery on behalf of Plaintiffs consistent with the Federal Rules of Civil Procedure, including the preparation of interrogatories, requests for production of documents, requests for admission and the examination of witnesses in depositions in the Action;
- D. To designate an attorney to enter into stipulations with Defendant's counsel in connection with the Action;
- E. To direct, supervise and monitor the activities of Plaintiffs' counsel and to implement procedures to ensure that schedules are met and unnecessary expenditures of time and funds by counsel are avoided in the Action;
- F. To conduct all pre-trial, trial and post-trial proceedings on behalf of all Plaintiffs in the Action, including appointing trial counsel;
- G. To employ and consult with experts;

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- H. To call meetings of the Executive Committee and other attorneys involved in this litigation when appropriate;
- I. To conduct settlement discussions in the Action with Defendant's counsel on behalf of Plaintiffs and the proposed Classes and to enter into a settlement with Defendant, subject to Court approval;
- J. To ensure that all Plaintiffs and all Plaintiffs' counsel are kept informed of the progress of the Action as necessary;
- K. To be responsible for forwarding, as necessary, to all Plaintiffs' counsel all orders, discovery, filings and other documents served on Interim Co-Lead Class Counsel in the Action;
- L. To make all work assignments to Plaintiffs' counsel in the Action and to do so in such a manner as to promote the orderly and efficient prosecution of the Action and to avoid unnecessary duplication and unproductive efforts;
- M. To ensure that work assignments to all Plaintiffs' counsel in the Action are made in the best interests of Plaintiffs and the proposed Classes and are made on the basis of the qualifications and expertise of the persons assigned particular tasks or responsibilities, counsel's knowledge of the law, facts and issues, efficiency and cost-effectiveness;¹

¹ Committees of counsel can sometimes lead to substantially increased costs. Therefore, Interim Co-Lead Class Counsel should try to avoid unnecessary duplication of efforts and control fees and expenses. See [Manual for Complex Litigation § 10.221 \(4th Edition, 2004\)](#).

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- N. To assess Plaintiffs' counsels' common litigation costs in the Action and to collect all assessments on a regular basis;
- O. To collect time, lodestar and expense reports from all Plaintiffs' counsel in the Action, including paralegals and any other staff members whose time is expected to be included in any fee petition in the Action;
- P. To coordinate and communicate with Defendant's counsel in the Action;
- Q. To coordinate and communicate with Plaintiffs' counsel in any other actions involving the Covered Vehicle defects at issue in this Action where those other actions are not formally related to this Action; and
- R. To otherwise coordinate the work of all Plaintiffs' counsel in the Action and to perform such other duties as necessary or as authorized by further order of the Court.

5. Interim Co-Lead Class Counsel shall serve as the principal point of contact for the Court with Plaintiffs' counsel in the Action and, in that role, shall have the following responsibilities:

- A. Receive orders, notices and telephone calls from the Court on behalf of all Plaintiffs' counsel in the Action and transmit copies of such orders and notices to all Plaintiffs' counsel;
- B. Attend all in-person and telephonic hearings and conferences before the Court in the Action;

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C. Coordinate the filing and service of all pleadings and other documents that are filed by Plaintiffs' counsel in the Action;

D. Sign any consolidated complaints, motions, briefs, discovery requests, objections, and responses, subpoenas or notices on behalf of all Plaintiffs in the Action; and

E. Ensure that all actions by Plaintiffs' counsel in the Action are in conformance with the applicable Local Civil Rules of the Court.

6. Defendant's counsel may rely upon all agreements made with and representations made by Interim Co-Lead Class Counsel in connection with the prosecution of the Action.

IT IS SO ORDERED.

September 14, 2011
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge